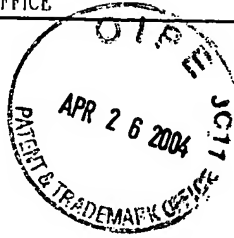




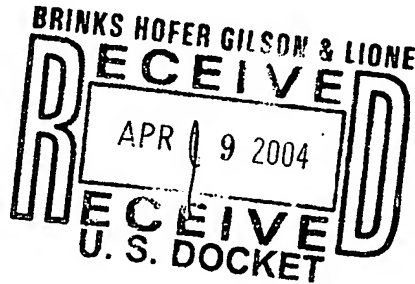
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Paper No. 3

JOHN MURRAY  
BRINKS, HOFER, GILSON & LIONE  
P.O. BOX 10395  
CHICAGO IL 60610



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APR 13 2004

OFFICE OF PETITIONS

In re Application of  
Das Gupta et al.  
Application No. 60/414,550  
Filed: 15 August, 2003  
Attorney Docket No. 11472/5

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:  
: DECISION GRANTING PETITION  
:  
:

This is a decision on the petition under 37 CFR 1.10(e)<sup>1</sup> filed on 1 April, 2004, requesting that the above-identified provisional application be accorded a filing date of 15 August, 2003.

Petitioners allege that the application was deposited in "Express

<sup>1</sup>37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Mail" service with the U.S. Postal Service on 15 August, 2003. In support, petitioner provided a copy of the Express Mail Customer Label No. EL835293006US, showing a Date-in of "8-15-03". The same Express Mail receipt number was referred to on the itemized Provisional Application Transmittal sheet submitted with the present petition. Petitioners have provided a copy of 59 pages of specification (including one (1) page of abstract and one title page), and 15 sheets of drawings.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.<sup>2</sup> That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 15 August, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with a filing date of 15 August, 2003, using the copies of the application papers supplied with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 15 August, 2003, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

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<sup>2</sup>MPEP 513.